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January 22, 2007*

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and designated Nevada counsel for Estate of Tabas

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE COMPANY,
Debtor.

USA CAPITAL REALTY ADVISORS, LLC,
Debtor.

USA CAPITAL DIVERSIFIED TRUST DEED FUND,
LLC,
Debtor.

USA CAPITAL FIRST TRUST DEED FUND, LLC,
Debtor.

USA SECURITIES, LLC,
Debtor.

Affects:
☐ All Debtors
☒ USA Commercial Mortgage Company
☐ USA Capital Realty Advisors, LLC
☐ USA Capital Diversified Trust Deed Fund, LLC
☐ USA Capital First Trust Deed Fund, LLC
☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR
Case No. BK-S-06-10729-LBR

Chapter 11

**NOTICE OF HEARING ON
ESTATE OF DANIEL TABAS'
AND FERTITTA ENTERPRISES,
INC.'S MOTION FOR RELIEF
FROM THE AUTOMATIC STAY
TO TERMINATE THE LOAN
SERVICING AGREEMENT FOR
THE DIRECT LOAN TO COLT
GATEWAY LLC**

Hearing Date: February 15, 2007
Hearing Time: 9:30 a.m.

PLEASE TAKE NOTICE that the Estate of Daniel Tabas and Fertitta Enterprises,, Inc., by and through their respective counsel Jonathan J. Bart, Esq., and Janet L. Chubb, Esq., of Jones Vargas filed a Motion for Relief from the Automatic Stay to Terminate the Loan Servicing Agreement for the Direct Loan to Colt Gateway LLC on the grounds that USA Commercial has failed to satisfy the terms of its loan servicing agreement or its obligations under the Nevada Administrative Code. Debtor's past and continuing contractual breaches constitute cause necessary to terminate the automatic stay in this loan. Movants request this relief from the automatic stay in order to terminate USA Commercial as the servicing agent the Colt Gateway and hire a new servicing agent.

A hearing on this Motion will be held before a United States Bankruptcy Judge, in Bankruptcy Courtroom No. 1, 300 Las Vegas Boulevard South, 3rd Floor, Las Vegas, Nevada, at the date and time listed above.

Any opposition must be served on the undersigned counsel and filed with the Court pursuant to Local Rule 9013(e)(1):

"Except for motions made pursuant to Fed. R. Bank. P. 7056 and LR 7056, an opposition to a motion must be filed and service completed upon the movant not more than fifteen (15) days after service of the motion (eighteen (18) days if service of the motion is by mail pursuant to FRBP 9006(e)&(f), but in no event later than five (5) business days before the date set for the hearing so that the movant receives the opposition no less than five (5) business days before the hearing date or within the time otherwise fixed by the court. The opposition must set forth all relevant facts and must contain a legal memorandum. An opposition may be supported by affidavits or declarations that conform to the provisions of subsection (d) of this rule."

If you object to the relief requested, you *must* file a WRITTEN response to this pleading with the court. You *must* also serve your written response on the person who sent you this notice.

If you do not file a written response with the court, or if you do not serve your written response on the person who sent you this notice, then:

- The court may *refuse to allow you to speak* at the scheduled hearing; and
- The court may *rule against you* without formally calling the matter at the hearing.

1 The relief requested may be granted without a hearing if timely objection is not filed and served as
2 required by this rule.

3 A copy of the Motion is on file at the office of the Clerk, United States Bankruptcy Court,
4 300 Las Vegas Boulevard South, Las Vegas, NV 89101, and is available for inspection and
5 copying.

6 DATED this 22nd day of January, 2007.

7 WILENTZ GOLDMAN & SPITZER P.A.

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8 //s//Jonathan J. Bart

//s//Louis M. Bubala III

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CERTIFICATE OF SERVICE

1. On January 22, 2007, I served the following document(s):

**NOTICE OF HEARING ON
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MOTION FOR RELIEF FROM THE AUTOMATIC STAY TO
TERMINATE THE LOAN SERVICING AGREEMENT
FOR THE DIRECT LOAN TO COLT GATEWAY LLC**

2. I served the above-named document(s) by the following means to the persons as listed below:

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9 c. Personal Service (list persons and addresses):
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9 For a party, delivery was made by handing the document(s) to the party or by leaving the document(s) at the person's dwelling house or usual place of abode with someone of suitable age and discretion residing there.

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Based upon the written agreement of the parties to accept service by email or a court order, I caused the document(s) to be sent to the persons at the email addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

9 e. By fax transmission (list persons and fax numbers):

Based upon the written agreement of the parties to accept service by fax transmission or a court order, I faxed the document(s) to the persons at the fax numbers listed below. No error was reported by the fax machine that I used. A copy of the record of the fax transmission is attached.

9 f. By messenger:

I served the document(s) by placing them in an envelope or package addressed to the persons at the addresses listed blow and providing them to a messenger for service. (A declaration by the messenger must be attached to this Certificate of Service).

I declare under penalty of perjury that the foregoing is true and correct.

DATED this 22nd day of January, 2007.

J. Englehart & Tawney Waldo
Name

//s// Tawney Waldo & J. Englehart
Signature

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